

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

JESSICA JONES, et al.,

Plaintiffs,

v.

Varsity Brands, LLC, et al.

Defendants.

Case No. 2:20-cv-02892-SHL-tmp

JURY DEMAND

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE EXCESS PAGES IN
OPPOSITION TO DEFENDANTS' MOTION TO EXCLUDE THE TESTIMONY OF
RANDAL HEEB, PH.D. AND MEMORANDUM OF LAW IN SUPPORT THEREOF**

Pursuant to Local Rule 7.2(e), Plaintiffs Jessica Jones and Christina Lorenzen ("Plaintiffs") respectfully move for leave to exceed the page limit by up to ten pages in their opposition to Defendant's Motion to Exclude the Testimony of Dr. Heeb. In support of this Motion, Plaintiffs state as follows:

1. On February 3, 2023, Defendants moved the Court for leave to exceed the page limit, by ten pages, in their Motion to Exceed Page Limitations in Briefing Defendants' Motion to Exclude Testimony of Plaintiffs' Proffered Expert Randal Heeb, Ph.D. and Request for Expedited Briefing. ECF No. 373.

2. On February 6, 2023, Plaintiffs filed their Response in Opposition to Defendants' Motion to Exceed Page Limitations opposing the increased page limit but reserving the right to request increased page limits for their upcoming *Daubert* motions and oppositions to Defendants' *Daubert* motions if Defendants' motion was granted. ECF No. 375.

Case No. 2:20-cv-02892-SHL-tmp

PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE EXCESS PAGES IN OPPOSITION TO
DEFENDANTS' MOTION TO EXCLUDE THE TESTIMONY OF RANDAL HEEB, PH.D. AND
MEMORANDUM OF LAW IN SUPPORT THEREOF

3. On February 7, 2023, the Court granted Defendants' request for ten additional pages in support of their motion to exclude Dr. Heeb's testimony. ECF No. 376.

4. On February 10, 2023, Defendants filed their Motion to Exclude Testimony of Plaintiffs' Proffered Expert Randal Heeb, Ph.D. ECF No. 388. The brief is a full thirty pages long, and contains no fewer than five separate theories, supported by more than forty caselaw citations, that Defendants assert weigh in favor of exclusion, including assertions purporting to find fault with Dr. Heeb's methodology, regression analysis, and market definitions, among other things. Defendants' arguments rely on unsupported assertions, mischaracterize Dr. Heeb's reports and analysis, and frequently apply the wrong standard or misapply an applicable standard.

5. Weaknesses in Defendants' motion notwithstanding, Plaintiffs should have the opportunity and space to fully address each of Defendants' arguments in turn. Based on the length of Defendant's brief, the complexity of the issues, and the sheer quantity of assertions and citations in Defendants' brief, notions of equity and fair play dictate that Plaintiffs should have the same amount of space as Defendants to respond fully to Defendants' assertions. The parties and the Court will benefit from a fulsome response to Defendants' Motion to Exclude. Accordingly, Plaintiffs seek leave to exceed the page limit under Local Rule 7.2(e) by up to ten additional pages (for a total of thirty pages) to adequately respond to the arguments raised in Defendants' motion to exclude Dr. Heeb.

6. Defendants do not oppose this request.

For foregoing reasons, Plaintiffs respectfully ask that the Court enter an order allowing Plaintiffs to file no more than thirty pages in opposition to Defendants' Motion to Exclude Dr. Heeb's testimony.

Dated: March 16, 2023

Respectfully submitted,

By: /s/ Joseph R. Saveri
Joseph R. Saveri

Joseph R. Saveri*
Steven N. Williams*
Ronnie Seidel Spiegel*+
Kevin E. Rayhill*
Elissa A. Buchanan*
David Seidel*
JOSEPH SAVERI LAW FIRM, LLP
601 California Street, Suite 1000
San Francisco, California 94108
Telephone: (415) 500-6800
Facsimile: (415) 395-9940
jsaveri@saverilawfirm.com
swilliams@saverilawfirm.com
rspiegel@saverilawfirm.com
krayhill@saverilawfirm.com
eabuchanan@saverilawfirm.com
dseidel@saverilawfirm.com

Van Turner Jr. (TN Bar No. 22603)
TURNER FEILD, PLLC
2650 Thousand Oaks Blvd., Suite 2325
Memphis, Tennessee 38118
Telephone: (901) 290-6610
Facsimile: (901) 290-6611
VTurner@TurnerFeildLaw.com

Richard M. Paul III*
Sean R. Cooper*
Ashlea Schwarz*
PAUL LLP
601 Walnut, Suite 300
Kansas City, Missouri 64106
Telephone: (816) 984-8100
rick@paulllp.com
sean@paulllp.com
ashlea@paulllp.com

Jason S. Hartley*

Fatima Brizuela*
HARTLEY LLP
101 West Broadway, Suite 820
San Diego, CA 92101
Telephone: (619) 400-5822
hartley@hartleyllp.com
brizuela@hartleyllp.com

Daniel E. Gustafson*
Daniel C. Hedlund*
Daniel J. Nordin*
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
Facsimile: (612) 339-6622
dgustafson@gustafsongluek.com
dhedlund@gustafsongluek.com
dnordin@gustafsongluek.com

* Admitted *pro hac vice*

+Located in Washington State

*Attorneys for Individual and
Representative Plaintiffs*

CERTIFICATE OF CONSULTATION

I hereby certify, pursuant to Local Rule 7.2(a)(1)(B), that on March 14, 2023, my colleague, Ronnie Spiegel, emailed counsel for Defendants (specifically, Mathew Mulqueen and Steven Kaiser for the Varsity, Bain, and Charlesbank Defendants; Nicole Riccio for Defendant USASF, and Brendan Gaffney for Defendant Jeff Webb) advising them that Plaintiffs intended to file a motion seeking the relief set out above and asking if they would oppose Plaintiffs' motion. On March 14, 2023, Matthew Mulqueen responded on behalf of all Defendants and said Defendants do not oppose.

Date: March 16, 2023

/s/ Joseph R. Saveri

Joseph R. Saveri